



**National Crime Prevention and Privacy Compact**  
**COMPACT COUNCIL MEETING**  
**SCOTTSDALE, ARIZONA**  
**MAY 2- 4, 2001**  
**MINUTES**

The meeting of the Compact Council was called to order at 9:00 a.m. on May 2, 2001, in the Holiday Inn Hotel and Conference Center Old Town, Scottsdale, Arizona, by Compact Council Chairman Wilbur Rehmann.

Ms. Cathy Morrison, Interim FBI Compact Officer, called roll of the Compact Council members. The following Compact Council members, or their proxies, were in attendance.

**State Compact Officers:**

- Mr. Dennis DeBacco, Nevada Highway Patrol
- Mr. Paul Heppner, Georgia Bureau of Investigation
- Mr. Wilbur Rehmann, Montana Department of Justice
- Mr. Terrance Hoil, Iowa Division of Criminal Investigation
- Major Mark Huguley, South Carolina Law Enforcement Division
- Lt. Col. Marjorie Kolpa, Connecticut State Police
- Mr. Allan Stanley, Colorado Bureau of Investigation
- Ms. Martha Wright, (proxy for Ms. Donna Uzzell, Florida Department of Law Enforcement, until arrival at approx. 10:00 am)

**Chief Administrator of a Non-Compact State:**

- Lt. Col. Jeffrey Harmon, Maine State Police

**State/Local Non-Criminal Justice Agency Representative:**

- Ms. Janet Jessup, New Mexico Gaming Control Board

**State/Local Criminal Justice Agency Representative:**

- Lt. Clifford Daimler, Oregon State Police

**Federal Non-Criminal Justice Agency Representative:**

- Ms. Kathy Dillaman, Office of Personnel Management

**Federal Criminal Justice Agency Representative:**

- Inspector John Swanson, U.S. Postal Inspection Service

**Advisory Policy Board Representative:**

- Mr. William Casey, Boston Police Department

**Federal Bureau of Investigation Representative:**

- Mr. Thomas E. Bush III, (Proxy for Mr. Michael D. Kirkpatrick), FBI CJIS Division

Chairman Rehmann welcomed new state Compact Officer, Mr. Charlie Pruitt, Arkansas Crime Information Center and made note of Arkansas being the ninth and most recent state to ratify the Compact. Additional attendees in the gallery were asked to introduce themselves and the agency they represented (see attachment 1).

The first item of business addressed by the Council was the draft minutes from the February 13, 2001 meeting. It was noted that no comments were received on the draft minutes circulated prior to the meeting.

**Compact Council Action: Mr. Dennis DeBacco made a motion for approval of the minutes. Lt. Col. Jeff Harmon seconded the motion. Motion carried.**

Chairman Rehmann thanked the members of the CJIS Advisory Policy Board (APB), and in particular, Mr. Bill Casey, for the warm reception received as he participated in various subcommittees and working groups. Additionally, Chairman Rehmann stated the importance of a fruitful and healthy relationship between the APB and the Council.

Agenda items were then addressed.

### **Topic #1 Standards Committee Report on the Compact Record Screening Provisions**

Standards Committee Chairman Jeff Harmon presented this topic, reporting on the committee's progress at its February meeting and gave a brief overview of the proposed rule. Several precepts outlined in the proposed rule were pointed out for the Council to consider.

- The purpose of the rule is to delineate the record screening procedures to be used by both party and nonparty states.
- A state receiving the record will be the party that screens the record, consistent with the Compact itself. Additionally, the rule is attempting to be consistent with the proposed amendments to the Volunteers for Childrens Act.
- If the receiving state has specific guidance on how records are to be screened for that particular purpose, the state will follow that guidance (e.g., arrests without dispositions are to be redacted from the record). The screening/dissemination guidance could appear in the form of a statute, executive order, or a formal opinion from the state's Attorney General.
- Absent guidance for that particular purpose, the state would follow the record screening guidance generally used for noncriminal justice purposes.

In a discussion on the Compact Council's authority, Chairman Rehmann pointed out sections of the Compact itself such as Article VI (a)(1) which dealt with the Council's authority. Chairman Rehmann relayed a discussion with Judge Real, Chair of the CJIS APB Sanctions Subcommittee, and apparent confusion about the authority of the Council. Their general discussion centered around developing a sanctions process between the APB and the Council and the need to determine jurisdiction prior to invoking a sanction. Chairman Rehmann stated the Council does not bind non-Compact states (in the sense of contract law) but does have authority to promulgate rules for the noncriminal justice use of III system and that this distinction is the genesis of the confusion in regards to the Council's authority. Chairman Rehmann recalled, in

previous discussions with Mr. Dave Loesch of the FBI, the role and authority of the council had been determined.

Questions regarding the proposed rule were entertained. Minor corrections to eliminate inconsistencies were suggested. A recommendation was made to add language to the rule regarding the FBI Compact Officer and his/her responsibility regarding the record request procedures for nonparty states.

A lengthy discussion ensued regarding clarifying sections B, C, and D by adding language to the effect that it is the criminal history record repository or authorized agency receiving the record and also screening the record.

**Compact Council Action: Mr. Bill Casey made a motion to table the discussion until the Standards Committee could meet and come back to the Council with additional language. Seconded by Lt. Col. Harmon.**

The Standards Committee convened briefly to draft language for the proposed rule changes. (See Attachment 2).

**Compact Council Action: Lt. Col. Harmon made a motion to adopt the criminal history record screening rule as amended. Lt. Cliff Daimler seconded the motion. Motion carried.**

Mr. Frank Campbell stated the Department of Justice has not had a chance to render a legal opinion on whether the Compact Council rules would bind nonparty states. The Department will receive input from FBI's legal staff on this issue as well. Mr. Campbell stated he believed the DOJ Office of Legal Counsel will look at this issue closely and will render an opinion on it, at least as it relates to the position of the United States. Mr. Campbell stated that the new administration is sorting out the lines of authority as it relates to the relationship with the Council. Mr. Campbell will assist in clarifying the role of the Department through the different stages of development of Council's rules, up to and including publication. The Department's experience in publishing regulations enables it to provide guidance on such issues.

A memorandum was distributed detailing an opinion on the Council's authority. The memorandum stated that parties to the Compact, which include party states and the federal government, must comply with the Compact and Council rules. In nonparty states, compliance with the Compact and with Council rules is a condition of discretionary use of the III System for a noncriminal justice purpose. A nonparty state is not required by the Compact to use the III System for a noncriminal justice purpose. However, if any such state does wish to obtain a national search via III for non-criminal justice purpose, the search and the use of records obtained from Compact parties in response to such search are subject to the Compact and to rules established by the Compact Council.

**Topic #2 Standards Committee Report on NFF State Audit/Sanction Criteria**

Lt. Col. Harmon briefly reviewed the topic, pointing out the Standards Committee removed all language previously in the Audit Criteria applicable to a sanctionable or non-sanctionable determination. The premise of the NFF reflected in the Qualification Requirements denote NFF states must maintain records supporting both criminal justice and noncriminal justice use of the III. The NFF states are required to and audited for their performance for record maintenance which supports record dissemination for both criminal justice and noncriminal justice purposes. The Standards Committee does not intend to create separate processes that require the state criminal history record repository to maintain separate databases or create separate audits for criminal justice and noncriminal justice access. The Standards Committee recommended the Qualification Requirements and the Audit Criteria should be jointly endorsed by the APB and the Compact Council prior to the rule being promulgated. Additionally, ratification of the Compact was mentioned as a prerequisite for all future NFF states, prior to participation. If no further changes to the document are brought to Lt. Col. Harmon's attention, the Qualification Requirements and Audit Criteria would be forwarded to the APB for review and comment, prior to the adoption of a rule.

### **Topic #3 Sanctions Committee Report**

Chairman Rehmann briefly discussed the Council Sanctions Committee's progress at its January 2001 meeting in San Diego, California. He conveyed the committee's proposal that one audit conducted by the FBI Audit Staff would cover both criminal and noncriminal justice use of the III System. The audit findings on noncriminal justice misuse would be relayed to the Sanctions Committee for review and recommendations would be forwarded to the Council for final decision. It was noted that the Council's Sanctions Committee should always deal with the Compact Officer in party states, and in nonparty states, the chief administrator of the criminal history record repository. Contact with the local law enforcement agency should always be directed through the state representative.

The Council requested FBI staff take the proposed sanctions process as outlined in the staff paper and format as a rule. Language should be added to the proposed process reflecting that the local or state agency will attend at the request of the Compact Officer or chief administrator of the criminal history record repository. Additionally, staff should explore whether the sanctions would need to be discussed at the Sanctions Committee as an open public meeting. The fourth step in the proposed process should be amended by removing the part about "the local" attending the Sanctions Committee meeting. The locals would have the opportunity to address the Council as a member of the public. FBI staff should circulate the draft proposed rule to Council members for review and comment, prior to the next meeting. The Council will continue discussion on the rule at the next scheduled meeting.

Council members discussed that the Compact provides that the FBI enter into a MOU with the chief administrator of central repository in nonparty states. This detail should be provided to and coordinated with the APB as the sanctions process is established. A reference to the MOU should be detailed in the proposed sanctions rule. The MOU should delineate the authority of the Compact Council over the use of the III system for noncriminal justice purposes

in both party and nonparty states. Additionally, all requirements of III use should be detailed in the MOU.

### **Emergency Child Placement Rule**

Revisions to the Emergency Child Placement Rule were discussed. Ms. Cathy Morrison expressed that in working with the DOJ, several format changes and boiler plate language on exemptions from the Administrative Procedures Act and various executive orders were added to the rule as well as minor nonsubstantive wordsmithing changes. Council members made no suggested changes to the rule as presented (See attachment 3). Chairman Rehmann directed Council staff to forward the rule for immediate publication in the Federal Register.

### **Topic #9 Standards Committee report on the Standardization Rap Sheet**

Lt. Col. Harmon introduced Mr. Tom Hopper and Mr. John Loverude who gave presentations on XML and the Joint Task Force on Rap Sheet Standardization (JTF) respectively. Mr. Hopper's overview of XML included a comparison to features of other programming languages. XML was described as a tagged field language. Mr. Hopper addressed questions regarding converting ANSI/NIST to XML. Mr. Loverude discussed the specification released for rap sheet standardization and the composition of the JTF. Mr. Loverude and Chairman Rehmann had discussed the addition of a Council member to the JTF and had reached consensus on having a Council member included on the JTF.

**Compact Council Action: Council members requested a letter be written to the JTF thanking them for Compact Council representation on the JTF. Subsequently, letters should be written to FBI, SEARCH, and NLETS showing the Council's support for the concept of implementing a standardized rap sheet.**

Council members expressed interest in having a seat on the Global Advisory Committee (GAC) which has oversight to develop and implement standards-based information exchange capabilities in a secured and trusted environment.

**Compact Council Action: Council members suggested Chairman Rehmann write a letter to the Attorney General or Col. Mike Robinson, chairman, requesting a seat on the GAC.**

Chairman Rehmann stated once approval was gained from Global, he would solicit suggestions from Council members for a designee to the GAC.

The Compact Council's role with the JTF and the specifications review were discussed at great length. Chairman Rehmann stated once the Compact Council representative was appointed to the JTF, the Council would begin to take an active role in the specifications review and development of the standardized rap sheet. The person appointed to the JTF would keep the Council informed of any pressing issues, if any arose before the fall meeting of the Council.

## **Topic #5 Standards Committee Report on the Flat Fingerprint-Based Applicant Background Checks Proposed National Plan**

Mr. Harlin McEwen gave a brief overview of the Flat Fingerprint-Based Applicant Background Check and the history of the concept's development. He informed the Council that the International Association for Chiefs of Police (IACP) Private Sector Liaison Committee is involved in a similar effort to create a strategy for civil background checks. Mr. McEwen encouraged the Council to become involved with the IACP committee as they continue drafting a plan, stating this interaction could be very valuable to the Compact Council's efforts.

Deputy Director Mike Powers of the Ohio Bureau of Criminal Identification and Investigation discussed the Ohio Webcheck system and rationale for its development. Ohio is currently conducting approximately 625 Webchecks daily. However, Webcheck can handle 5,000 fingerprint submissions for state searches daily. Responses are being returned in one and a half to two hours. The demographic information is entered into Webcheck by swiping the 2-D bar code contained on the back of the Ohio driver's license. Four flat fingerprint images are scanned into the Webcheck; however, only the best two prints are used in the matcher comparison. If the quality edit fails during processing, a fingerprint card is required, altering the response time to two business days. Currently, Webcheck does not accommodate a national background check due to the FBI requirement for a ten-print submission. Mr. Powers noted Webcheck searches have hit on 10,000 people that would not have been found through a name search. Webcheck is also used with Ohio's Sexual Offender Registration Notification. Fingerprint images are stored in Webcheck for twelve months. Individuals needing recertification within the twelve-month period do not have to submit additional fingerprints for comparison.

Mr. Hopper gave an overview on the capture of fingerprints. Mr. Hopper showed several examples of flat fingerprint images when images were captured individually as compared to simultaneously. Image quality was better with simultaneous capture of fingers. Mr. Hopper stated a quality plain impression (flats) produces enough minutiae to produce a match. Mr. Hopper talked about the necessity to have filters in a less than ten-print search, so only a portion of the entire fingerprint data base would need to be searched.

Mr. Bill Saunders from Lockheed Martin gave a presentation on the flat fingerprints. Mr. Saunders noted the high quality rolled prints will always contain more information or minutia points than high quality flat prints. However quality flats may be easier to obtain due to training, experience and hardware mechanisms utilized. The information content (minutia) used by matchers is generated by scanner characteristics such as area of capture, resolution sensitivity, calibration frequency, and is enhanced by training and experience. Mr. Saunders mentioned the cost of operations/ownership could stay constant because as the price of scanners decrease with technological advancement, increased salaries of personnel taking the fingerprints may offset that decrease. Another point to consider is in less than ten print searches, maintaining the same reliability tends to increase human involvement because less data is sent to the matcher, hence more candidates are yielded for comparison. It was noted that better filter rate performance classification is obtained with liveness data than with inked data. Mr. Saunders stated, on

average, 40 percent more work is sent to the matcher if ink prints are used, compared to livescan prints.

Chairman Rehmann adjourned the meeting for the day at 5:29 p.m.

Chairman Rehmann reconvened the meeting Thursday, May 3, 2001 at 9:00 a.m.

Discussion continued on the flat fingerprint issue. The Standards Committee expressed an interest in working with Ohio and the FBI regarding testing with the Webcheck pilot project. The Standards Committee is seeking input and feedback from the metrics or standards used and the methodology used to evaluate the Webcheck results. The Committee feels the ultimate goal is to gather data which provides the means of determining the basis of an acceptable national standard for flat fingerprints.

The Council anticipates updates from FBI personnel to include technical and policy aspects relative to the project. The Standards Committee will continue to assess the flat fingerprint project. It was noted that state criminal history repositories primarily support criminal justice purposes but are a key component in a national applicant search. Due to perceived state impact and state interest, a restructuring of the Standards Committee was deemed prudent to protect vested state criminal justice interests. Chairman Rehmann appointed Mr. Paul Heppner and Mr. Dennis DeBacco to the Standards Committee. Mr. Gary Cooper from SEARCH was removed from that Committee. Mr. Terry Hoil was appointed to the Sanctions Committee.

#### **Topic #4 Wrap up of Mission Statement/Goals/Objectives and Work Plan**

A legal opinion containing information relevant to the success of the Council's goals and objectives planning efforts was presented to the Council. Mr. Danny Moyer stated the FBI Office of General Counsel (OGC) opined there is justification within the Compact for the FBI to pay for Council and committee meetings. Secondly, the OGC stated there is not authorization within the FBI budget to fund independent counsel for the Compact Council. The two reasons for this position are: 1) conflict of interest, and 2) the lack within the Compact itself to give specific authority for funding an attorney for the Compact Council.

The Compact Council split up into three groups to discuss the Mission Statement/Goals/Objectives and Work Plan. Numerous revisions were made to the Compact Council's Strategic/Work Plan (See Attachment 4). Council staff was tasked with revising the document. The strategic plan will be discussed at the next Council meeting prior to final approval.

#### **Topic #6 General Discussion on the Definition of Criminal Justice**

Mr. Moyer gave a presentation citing the Code of Federal Regulations which delineates the FBI's definition of "criminal justice." This regulation does not contain the word "prevention" in the definition. Major Huguley agreed with Mr. Moyer that the law does not lend itself to an interpretation of the existing Code of Federal Regulations that includes prevention as among those elements permitted in an authorized check. He stated this issue may more appropriately belong with the APB to the extent that it is concerned with definition of criminal justice and not noncriminal justice. However, Council members noted that there is certainly a vested interest in this issue since noncriminal justice is whatever criminal justice is not.

**Compact Council Action: Ms. Uzzell made a motion to send the topic "Definition of Criminal Justice" to the APB to revisit and look at changes to the CFR to allow the criminal justice category to include some issues in prevention. Major Huguley seconded the motion. Motion carried.**

Mr. Bob McKee, Maryland Department of Public Safety, State Identification Bureau requested to speak to the Compact Council. He requested that an appropriate forum such as the APB decide if the criminal defense and the processing of juveniles should be included in the function of the administration of criminal justice.

**Compact Council Action: Mr. Harmon made a motion to refer the issues of criminal defense and also juvenile services for possible inclusion into the definition of the administration of criminal justice to the APB for further clarification. Juvenile services is meant in the context of arrest, prosecution and detention of juveniles. Mr. Casey seconded the motion. Motion carried.**

The Council generally discussed CFR Subpart B being interpreted to mean states accepting federal money are prohibited from allowing a noncriminal justice agency direct



terminal access to a state's own CHRI. The Council discussed requesting clarification from the Bureau of Justice Statistics (BJS) or requesting a potential CFR change.

**Compact Council Action:** Lt. Col. Harmon made a motion to ask the chair to communicate to the Director of BJS, with a copy to the FBI Director, requesting a review of the CFR at 20.21(f) and consider removing the word "access" from the CFR. This would allow direct terminal access for noncriminal justice purposes and remove the impediment from the states allowing direct terminal access to their own records. Major Huguley seconded the motion. Motion carried.

**Topic #7 General Discussion on the Interpretation of Undefined Terms Used in the Compact**

Ms. Paula Barron explained that the terms "information" and "records" are not defined in the Compact causing some hardship on states as they move forward in ratifying the Compact. The Oregon Legislative Council and an attorney representing the state police questioned the meaning of these terms. This was detrimental in gaining the support to move the Compact legislation forward in Oregon.

**Compact Council Action:** Lt. Daimler made a motion to have the Council determine if it is necessary to define those terms and if so to consider defining them generally to mean criminal history records, excluding the term "information" as used in Article VI (f). Motion carried.

Due to confusion on the intent of what had previously been voted on, Lt. Col. Harmon made a motion to reconsider the above motion. Seconded by Major Huguley. Motion carried.

Chairman Rehmann called the question on the reconsideration of the motion. Motion failed.

The Council determined this item needed more attention. Lt. Daimler will work with other interested parties, such as SEARCH, for a potential solution prior to the issue being brought back to the Council.

## **Topic #8      Improved Service to the NonCriminal Justice Customers Seeking III Information**

Mr. Jim Gray introduced the topic and pointed out several areas in the Compact which states the central repository shall conduct the record screening. Mr. Gray stated it appears that the Compact is structured in such a way as to not permit local criminal justice agencies access to III using Purpose Code I. State configuration allows the local livescan devices to send criminal fingerprint transmissions to the central repository. The responses are routed back to the local device via the central repository. The responses do not contain arrest information but simply identification responses which includes the FBI number allowing the local law enforcement agency to access the record if they so desire. It was noted that IAFIS was designed on the premises of electronic in - electronic out, manual in - manual out. There are some states in which the central repository does not conduct the screening, but rather the authorized agency. Some states choose to hand the rap sheet off to the inquiring agency, therefore the state may want the FBI to send the response back to the authorized agency. In cases where the state conducts the screening and does not have the state infrastructure to forward an electronic response, the state may prefer to have the response mailed back to the repository. There appears to be enough ambiguity in the language in the Compact for the Council to interpret it to authorize the FBI to mail responses to noncriminal justice requests received electronically.

Compact Article V provides that the FBI "shall" notify the state repository and that the repository "shall be entitled" to obtain the records from the FBI and other states. However, the Compact does not specifically say the central repository "must" obtain the records. The provision can reasonably be read to mean that the repository has the right to obtain the records if it elects to do so, but may not preclude an agreement to some other method of processing, including the FBI directly responding to the applicant noncriminal justice agency. The Compact language does not clearly prohibit the FBI from continuing to respond directly to noncriminal justice agencies, based on a request from the central repository and agreement by the FBI. There appears to be enough ambiguity in the relevant Compact provisions to permit the Council to endorse whatever practical resolution the state repositories and the FBI are able to work out.

**Compact Council Action: Major Huguley made a motion to authorize the FBI to mail non-criminal responses at the direction of the state repository to 92-544 entities regardless of the mode of submission or transmission. Lt. Col. Harmon seconded the motion. Motion carried.**

A discussion ensued on the use of Purpose Code I by local law enforcement. Some Council members envision that law enforcement agencies would not want to take on additional workload responsibilities of obtaining a record for a noncriminal justice agency. Others viewed this would not require a local law enforcement agency to do so, but it would allow access in those situations where a local law enforcement entity is willing to work with an agency authorized to submit P.L. 92-544 requests. The law enforcement agency would have to be willing to retrieve the rap sheet, in order to expedite the process of an electronic civil submission and a mailed response, thereby shortening the turnaround time from days and weeks into hours. This would not mandate the practice for local law enforcement agencies, it would only permit it if the law enforcement agency wants to enter into this type of situation.

The Council needs to further explore the language in the Compact which may in fact prohibit local agencies access to the III System in lieu of the central repository regardless of the concept being a good idea or not. A vote on this issue was deemed premature. The Council concluded the Purpose Code I issue will be forwarded to the Standards Committee for further consideration. The Standards Committee discussion is to include subject matter experts from FBI staff who have oversight responsibilities in this area.

### **Other Business**

The Council discussed the discontinuance of a long standing practice of the FBI providing the result of a name search portion of the search against the criminal master file as an alternative when fingerprint based checks were rejected due to the fingerprints being illegible. Historically, the FBI would provide, at a minimum, a reject message which included a notation that the name search had not produce a "hit", or conversely, if the name check yielded a candidate, the FBI would compare the prints for identification and provide the comparison results. In a letter dated April 2, 2001, the FBI stated the IAFIS error messages for illegible prints are not indicative of negative name check results if the fingerprints are illegible. The current system design does not allow for this capability.

**Compact Council Action: Mr. Hoil made a motion that the Compact Council believes that for some civil applicants, legible fingerprints cannot be obtained. In such cases, the FBI has conducted names searches and notified the contributors that the fingerprints were rejected and name checks had been conducted with negative results. The Council has determined that the policy as outlined in the April 2, 2001, letter from the FBI and the future upgrades to IAFIS will result in the elimination of this name search and does not meet the needs of the states or the individual applicants. Therefore, the Council urges the FBI to explore options for continuing a name search process for civil fingerprint card submissions that are rejected by the FBI for a second time. The response back to the contributors can explain the limitations of such searches. This direction is consistent with the Council's requirement that fingerprint cards must be submitted for noncriminal justice use of III. Major Mark Hugely seconded the motion. Motion carried.**

The FBI requested something in writing which would allow the continuance of the name check practice for illegible prints. It was noted there are exceptions to obtaining a quality set of prints, but what rule, policy, procedure, or law allows a name check for regulatory purposes. The Compact only states that fingerprints must be submitted for a national search. There are clearly instances or fingerprint anomalies which create the need for results by name rather than AFIS comparison. The problem was viewed as the FBI discontinuing a service the users have grown accustomed to. The FBI will be looking at an interim solution to this problem. However, after an initial technical assessment, it may be necessary for the FBI to report to the Council that a rule is needed in order to make the technical change.

It was noted under the new system, a name check is conducted but it is transparent to the FBI personnel conducting the comparison. The IAFIS personnel do not know whether the images on the screen were a result of a name search or AFIS search. The error messages in

IAFIS do not always allow one to conclude whether or not a name search was conducted. The IAFIS tech refresh occurring in December 2001 will change the FBI fingerprint flow process and algorithm scoring process which will eliminate false drops from name search candidates and to a greater extent rely more heavily on AFIS searches.

Chairman Rehmann adjourned the meeting for the day at 5:22 p.m.

Chairman Rehmann reconvened the meeting Friday, May 4, 2001 at 9:04 a.m.

## **Topic #10     Legislation Update/Review**

### **VCA Bill(s)**

Chairman Rehmann briefed the Council on the February 2001 meeting in Albuquerque, New Mexico with the Boy Scouts and Big Brother/Sisters, representatives from states and the FBI. There appeared to be interest in two aspects of background checks for volunteers - timeliness and cost. The representatives from volunteer organizations felt a check of the national repository would provide the most timely and cost-effective background check. Chairman Rehmann and other state representatives felt politically that is not a tenable position. This type of check would be bypassing the source of the most accurate data contained at the state central repositories. Others voiced that in states where the VCA has been implemented, volunteer organizations should not be allowed to deviate from the existing procedures established within the state. However, in those states which have not implemented the VCA, a national check conducted at the FBI would be preferable to no check at all. In order to more fully implement volunteer background checks, SEARCH volunteered to draft amendments to the VCA. It was noted that two additional bills may be introduced during this session addressing other alternatives for conducting volunteer background checks.

### **DOS Bill**

Mr. Moye gave a brief overview of legislation drafted by the Department of State titled the "Criminal Alien Visa Denial Act October 2001". The Access Integrity Unit and the APB have reviewed this draft legislation for consistency to a previous APB recommendation. The Access Integrity Unit has been resisting attempts to add riders to this legislation, allowing INS and U.S. Customs Service additional access. Mr. Moye mentioned there are individuals within the Department of Justice who are in agreement to the riders.

### **Port and Maritime Act**

Mr. Moye presented the details of the Port and Maritime Act which has the potential for name based checks rather than positive identification checks. This bill has the potential to provide data to private entities rather than to government agencies exclusively. Chairman Rehmann distributed a letter addressing concerns on the bill for the Council to review. Major Huguley suggested adding a statement to the letter reflecting South Carolina has ratified the Compact.

**Topic #10     HUD Use of the III System for Background Checks**

Ms. Morrison circulated a letter inviting a representative from the Housing and Urban Development (HUD) to attend the Council meeting. Ms. Morrison stated HUD is very interested in renewing their Memorandum of Understanding (MOU). HUD was extended an invitation to address III access via a conference call if they could not attend the Council meeting. The Council's intent or concerns on the HUD issue would be conveyed at that time. Ms. Barron distributed statistics on III use from HUD over the past year (See Attachment 5). Ms. Morrison stated the III use and subsequent fingerprint follow up had not substantially changed since the Name Check Efficacy Study was completed. Chairman Rehmann stated HUD checks would fall under noncriminal justice use and therefore, subject to the Compact and the fingerprint requirement. Chairman Rehmann will extend a second invitation for HUD to attend a Council meeting and discuss III use. Ms. Dillaman stated it appears that HUD is not complying with the MOU because HUD was supposed to submit fingerprints on all the name check hits. The statistics indicated that HUD has had 74,000 name check hits yet have only submitted 8,000 cards. HUD could very well be disqualifying on name check hits without the follow up fingerprint submission.

Mr. Rehmann adjourned the meeting at 10:11 a.m.